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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,302	07/26/2006	Chi Vu	B2047-7033US	1885

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CAMBRIDGE, MA 02142

EXAMINER

KIFLE, BRUCK

ART UNIT	PAPER NUMBER
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1624

NOTIFICATION DATE	DELIVERY MODE
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09/29/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DOCKETING@LL-A.COM
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Office Action Summary	Application No. 10/552,302	Applicant(s) VU ET AL.	
	Examiner Bruck Kifle	Art Unit 1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 2-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/09</u> . | 6) <input type="checkbox"/> Other: _____ |

Applicant's amendments and remarks filed 06/30/09 have been received and reviewed. Claims 1-45 are pending in this application. Claims 2-45 are withdrawn from consideration because art was found (see MPEP 803.02.)

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Neustadt et al. (US 6,875,772). The claim reads on numerous compounds of the reference. See, for example, compounds of Example 3 (col. 3, line 45), compounds in the Table starting at column 33 through column 40, Example 6 (bridging columns 43 and 44), Example 8, (near bottom of column 46), Examples 9-12 and Example 15.

Claim Rejections - 35 USC § 112

Claim 1 is again rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

i) The term "heteroaryl" is indefinite because it is not known how many atoms are present, how many and what kind of heteroatoms are involved, what size ring is intended and how many rings are present. Applicants point to the specification at page 13, line 15 to page 14, line 2 for support of the term. However, the specification is limited to examples of heteroatoms and does not say how many are permitted in the heteroaryl. Is only one heteroatom present and is more than O, N or S permitted? A clarification is required.

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- ii) Regarding the terms “heterocycloalkyl,” “heterocycloalkenyl,” “heteroaralkyl” and “heterocyclyl” Applicants point to the definition starting at page 12, line 26. Here again the specification is flawed because it does not specifically say how many and kind of heteroatoms make up the ring, which atoms are present and what kind of a ring (monocyclic, bicyclic, spiro, fused, bridged, saturated, etc.) is intended.
- iv) When two adjacent R’ groups can join to form a 4 to 8 membered optionally substituted cyclic moiety, it is unclear which atoms form the cyclic moiety. Also, the term “substituted” without saying which substituents are intended is indefinite. One skilled in the art cannot say which substituents are permitted and which ones are not. The definition and intended substituents in the specification should be included in the claims as the specification is limited to examples.

Applicants are again urgently requested to point to the excluded compounds in the prior art if the provisos are present to avoid prior art rejections because the disclosure of these excluded compounds is material to the examination of this application. Applicants’ statement that “any excluded compounds material to the examination of this application are cited in the Information Disclosure Statements filed previously and accompanying this reply” does not point to the excluded compounds. Since Applicants are most familiar with the documents cited as they relate to the instant claims, Applicants are again requested to be more specific and point to the excluded compounds in their specific reference.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruck Kifle whose telephone number is 571-272-0668. The examiner can normally be reached on Mondays-Fridays from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bruck Kifle/
Primary Examiner
Art Unit 1624

BK
September 22, 2009